



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: May 15, 2018  
MAHS Docket No.: 18-003446  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on May 14, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with her Live-In Partner, ██████████, as a witness. The Department of Health and Human Services (Department) was represented by ██████████  
██████████ Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Child Development and Care (CDC) benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 25, 2017, Petitioner submitted an application for CDC benefits.
2. On September 27, 2017, Petitioner received a letter from the Department indicating that her CDC case had been tentatively opened pending other information; no benefit amount was listed on the letter.
3. On November 20, 2017, the Department issued a Verification Checklist (VCL) for the Food Assistance Program (FAP) and CDC benefits seeking proof of Home Rent and CDC Need for Petitioner due back by November 30, 2017.
4. On November 21, 2017, Petitioner faxed several documents to the Department including rent receipts, a letter from herself, and a CDC Provider Verification form.

5. At some point, her CDC case was closed or benefits were denied; as a result, Petitioner filed a hearing request on February 23, 2018, disputing the closure or denial of benefits.
6. On February 28, 2018, Petitioner filed a new application for CDC benefits.
7. On March 1, 2018, a new VCL was issued for the FAP and CDC programs seeking proof of home rent and CDC Need for Family Preservation with proofs due back by March 12, 2018.
8. On the same day, the Department also mailed a Medical Needs-PATH (Partnership.Accountability.Training.Hope.) form to Petitioner, but the Department admitted at the hearing that it was the wrong form; Petitioner should have been provided a Client Preservation Form.
9. During March 2018, a pre-hearing conference was held based upon Petitioner's February 2018 request for hearing; Petitioner withdrew her hearing request based upon promises from the Department to resolve the issues related to her CDC case.
10. On March 23, 2018, the Department issued a Notice of Case Action denying Petitioner's February 2018 Application for CDC benefits because the Department had not received Verification of Family Preservation for CDC for Petitioner's Live-In-Partner, and Verification of Eligible Provider/Care Arrangements for Petitioner; the Department also decreased Petitioner's FAP benefits to \$ [REDACTED] effective May 1, 2018.
11. On April 2, 2018, Petitioner filed a new hearing request disputing the denial of CDC benefits and her FAP benefit rate.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

In this case, Petitioner had multiple applications, denials, and hearing requests. A client has 90 calendar days from the date of the written Notice of Case Action or negative action to request a hearing. BAM 600 (April 2018), p. 6. The request for hearing in this case was received by the Department on April 2, 2018; therefore, this decision can only address things that occurred on or after January 3, 2018. Based upon the evidence presented, Petitioner's September 2017 Application for CDC benefits was denied more than 90 days prior to her request for hearing. Thus, the denial of the September 2017 Application is not considered here. The denial of Petitioner's February 2018 application for CDC benefits and her FAP benefit rate are considered below.

### **Food Assistance Program**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner's hearing request had the box checked indicating that she wished to have a hearing regarding the calculation of her FAP benefits. At the hearing, Petitioner indicated that she felt that her housing expense had not been properly budgeted. The only evidence presented by the Department regarding Petitioner's FAP benefits appeared on a Notice of Case Action and Petitioner's Application for benefits. The Notice of Case Action indicated that \$0.00 had been budgeted for Petitioner's housing expense. Meanwhile, Petitioner's application for benefits listed a rental expense of \$ [REDACTED] per month and she provided proof of the expense to the Department in November 2017.

One of the considerations in calculating a FAP budget is the excess shelter deduction. BEM 554 (August 2017), p. 13. The excess shelter deduction considers housing expenses such as rent and mortgages, property taxes, heat, utilities, and other services. BEM 554, pp. 13-25. Since Petitioner reported the housing expense on her application, had previously provided proof of the expense in November 2017, and the Department failed to consider a housing expense as shown by the March 2018 Notice of Case Action, the Department has not met its burden of proof in establishing that it has acted in accordance with policy when calculating Petitioner's FAP benefit rate.

### **Child Development and Care**

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner was denied CDC benefits based upon her failure to verify need for her Live-In-Partner and Verification of the Eligible Provider/Care Arrangement. The Department readily admitted during the hearing that the Department failed to provide Petitioner with the correct form to enable her to show need for the CDC program. She should have been provided a Client Preservation Form. Instead, she was provided a form for the PATH program, unrelated to this case or Petitioner's circumstances.

Whenever the Department seeks verification of a circumstances, the Department must tell the client what verification is required, how to obtain it, and the due date. Bam 130

(April 2017), p. 3. Furthermore, the CDC Proof of Family Preservation Need must be used to document the family preservation child care need. BEM 703 (January 2018), p. 7. It must be signed by one of the following:

- A physician (M.D. or D.O.)
- Children’s Protective Services, foster care services, or preventative services worker if the child care is needed to allow a parent to participate in a treatment activity as a component of an active children’s protective services, foster care services, or preventative services case plan.
- A clinical psychologist.
- A clinical social worker.
- The clinical supervisor or director of a substance abuse treatment program.
- A substance abuse counselor.
- The specialist, if it is a Department-assigned family support services activity.

BEM 703, pp. 7-8. Looking at the VCL issued to Petitioner in March 2018, the letter only indicates that Petitioner should “Please provide additional information about: CDC Needed for Family Preservation.” This statement does not provide adequate information to Petitioner about what the Department needed. It does not mention anything about her Live-In-Partner; it does not mention anything about verification of an eligible provider/care arrangement. As a result, the Department did not act in accordance with policy when it denied Petitioner’s application based upon the failure to provide items which had not been listed in the VCL or provided to Petitioner.

It should be noted that on the day of application, Petitioner provided the Department with a completed CDC Provider Verification form as well as some medical documentation regarding Petitioner’s Live-In-Partner’s medical condition or treatment. While the medical documentation notes that Petitioner is attending therapy, receiving medication, and is compliant with his treatment protocol, the documentation does not discuss his diagnosis or treatment schedule to assist in the determination of need/family preservation. Child care may be approved for a child whose parent is:

- Unavailable to provide care because they are participating in a court-ordered activity.
- Unavailable to provide care because they are required to participate in the treatment activity of another member of the CDC program group, the CDC applicant or the CDC applicant’s spouse who lives in the home.
- Unable to provide care due to a condition for which they are being treated by a physician.
- Unavailable to provide care due to an employment or educational need that is part of the child protective services/foster care services case plan.

BEM 703, p. 6. Allowable treatment activities may include, but are not limited to the following:

- Hospitalization.
- Physical Therapy.
- Occupational Therapy.
- Speech Therapy.
- Counseling sessions.
- Alcoholics Anonymous (AA) meetings.
- Narcotics Anonymous (NA) meetings.
- Parenting classes.
- Food and nutrition classes.
- Court-ordered community service.
- Money management classes.

BEM 703, p. 7.

Based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's CDC benefits and failed to include Petitioner's housing expense in the calculation of her FAP benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's FAP benefit rate effective May 1, 2018, ongoing;
2. If Petitioner remains eligible for FAP benefits and is eligible for a greater FAP benefit rate than previously issued, issue supplements to Petitioner in accordance with Department policy effective May 1, 2018, ongoing;
3. Reinstate and redetermine Petitioner's application for CDC benefits;

4. If Petitioner is eligible for CDC benefits, issue supplements to Petitioner or on Petitioner's behalf for benefits not previously received, effective the date of Petitioner's February 28, 2018, application for CDC benefits in accordance with Department policy;
5. Notify Petitioner in writing of its decisions.



AM/

**Amanda M. T. Marler**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

[REDACTED]  
MDHHS-Wayne-57-Hearings

**Petitioner**

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